

REMARKS

Applicant respectfully requests reconsideration of the present application.

Claims 1-8 are presently pending.

I. Rejections under 35 U.S.C. § 112, first paragraph

A. Enablement

The Examiner continues to reject claims 1 – 3 and 5 – 8 under 35 U.S.C. §112, first paragraph. The Examiner maintains the position that while the specification is “enabling for multi-florescent African Violet plants derived from the deposited material and methods using the same”, the specification “does not reasonably provide enablement for multi-florescent African violets *made by any other method.*” Accordingly, the Examiner argues that one skilled in the art would not be enabled to make the claimed invention commensurate within the scope of pending claims, 1-3 and 5-8.

Applicant respectfully submits that the Examiner has failed to appreciate the law related to enablement. It should be sufficient that the Applicant has provided one method of making the claimed plants.

The first paragraph of 35 U.S.C. §112 states:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Applicant submits that the present application is enabled and provides an adequate written description of the claimed invention. Applicant provides a method for producing multiflorescent African violets which previous traditional breeding techniques failed to produce. Any person skilled in the art could follow the steps as disclosed in the application to reproduce the plants. The Applicant is not required to provide every possible method for

reproducing the multiflorescent African violet, rather the Applicant directs claims to the method disclosed, comprising of the steps of crossing, as the male or female parent, a first African violet plant that has at least one leaf axil with more than one flower stem, with a second African violet plant having a second desirable trait but only 1 flower stem on any leaf axil, and selecting progeny that have at least one leaf axil with more than one flower stem and the second desirable trait.

Furthermore, Applicant deposited seed with the American Type Culture Collection (ATCC) from the cross of African Violet variety 'SB 4-2 Muflo', which exhibits the multiflorescence trait, to African Violet variety 'P6/6'. Plants from the deposited seeds can be crossed with any African Violet plant to produce progeny that exhibit the multiflorescence trait. Applicant respectfully submits that the deposit of these seeds is sufficient to enable the pending claims as any person skilled in the art could follow the steps as disclosed in the application using the deposited seed as a source of genes to reproduce the plants.

B. Written Description

The Examiner continues to reject claims 1-3 and 7 under 35 U.S.C. §112, first paragraph. The Examiner maintains the position that the specification, at the time of filing, failed to describe the claimed invention "in a way to reasonably convey to one skilled in the art, that the Applicant was in possession of the claimed invention."

Claims 1-3 and 7 are directed to any viable African Violet plants or seeds that produce a plant that possesses at least one axil that produces more than one flower stem. The Examiner considers that the disclosed embodiments are not representative of the enormous number of products claimed. Applicant respectfully traverses the rejection.

As previously argued, Applicant asserts that the specification does provide, in the Examples and Figures, an adequate written description showing possession of the invention by Applicant. The specification describes crossing 'SB-4-2 Muflo' to diverse African Violet plants to introgress the multiflorescence trait into diverse genetic backgrounds.

The Examiner states that millions of possible phenotypes are claimed due to the many phenotypical traits which may vary independently in a population of plants. Applicant has provided an adequate written description for one skilled in the art to identify African violet plants that possess the desired phenotype where at least one of the plants displays at least one leaf axil that produces more than one flower stem. A person skilled in the art would be able to identify plants that possess this desired phenotype, and any additional other traits exhibited would not be relevant.

As asserted by the Applicant and as confirmed by the Examiner's search of the prior art, traditional breeding techniques have to date failed to produce African violet cultivars that stably produce more than one flower stem from one leaf node.

Accordingly, Applicants respectfully request withdrawal of the rejection.

II. Allowable Subject Matter

Claim 4 is objected to as dependent upon a rejected base claim and the Examiner states that if the claim is written in independent form with all the limitations of the base claim and intervening claims that it would be allowable. It is requested that the objection be withdrawn.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

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